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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In The Matter of)

Implementation of the)
Telecommunications Act of 1996)

Amendment of Rules Governing)
Procedures to Be Followed When)
Formal Complaints Are Filed Against)
Common Carriers)

Accelerated Docket for Complaint)
Proceedings)

CC Docket No. 96-238

**COMMENTS OF THE
TELECOMMUNICATIONS RESELLERS ASSOCIATION**

**TELECOMMUNICATIONS
RESELLERS ASSOCIATION**

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SUMMARY

The Telecommunications Resellers Association ("TRA"), a national trade association representing more than 650 entities engaged in, or providing products and services in support of, telecommunications resale, offers the following comments regarding the establishment of an Accelerated Docket for carrier-to-carrier complaint proceedings:

- Carrier-to-carrier disputes raising competitive issues should be automatically eligible for Accelerated Docket Treatment.
- A live evidence and argument, hearing-type proceeding should be established for all Accelerated Docket complaints; care should be taken, however, to avoid prejudicing the ultimate outcome by an overly rigid enforcement of allotted time for case presentation and witness cross-examination in circumstances where information is not sufficiently forthcoming.
- The Accelerated Docket's rapid timeframe justifies imposition of severe sanctions for failure to comply with discovery requests, even so far as dismissal of the complaint or an automatic holding against defendant in particularly egregious situations.
- Imposition of an obligation on the part of complainants to enlist Task Force participation of settlement discussions prior to filing an Accelerated Docket complaint would impede the resolution process while according no appreciable corresponding benefit to participants and should not be imposed as a condition to acceptance of a complaint on the Accelerated Docket.
- Designation of a complaint for Accelerated Docket treatment should be allowed (i) at the request of complainant at time of filing; (ii) at the joint request of parties to an existing formal complaint; or (iii) upon defendant's motion within certain period (for example, 10 days) after the complaint is filed; to the extent a defendant objects to placement of the complaint on the Accelerated Docket, objections must be made within five days of service of complaint, with the motion to be decided at the initial status conference.
- Adjustments to the status conference necessary to accommodate rapid timeframe include not only scheduling of the status conference 15 calendar days after filing of complaint, but also (i) allowing a telephonic meet-and-confer, and (ii) allowing submission of individual statements if a joint written agreement cannot be reached by 10 days after filing of complaint.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In The Matter of

**Implementation of the
Telecommunications Act of 1996**

**Amendment of Rules Governing
Procedures to Be Followed When
Formal Complaints Are Filed Against
Common Carriers**

**Accelerated Docket for Complaint
Proceedings**

CC Docket No. 96-238

**COMMENTS OF THE
TELECOMMUNICATIONS RESELLERS ASSOCIATION**

The Telecommunications Resellers Association ("TRA"),¹ through undersigned counsel and pursuant to *Public Notice*, DA 97-2178, released December 12, 1997, hereby submits its comments regarding the establishment of an accelerated docket for complaint proceedings and the application of a variation of the Commission's newly modified formal complaint rules to that

¹ A national trade association, TRA represents more than 650 entities engaged in, or providing products and services in support of, telecommunications resale. TRA was created, and carries a continuing mandate, to foster and promote landline and wireless telecommunications resale, to support the telecommunications resale industry and to protect the interests of entities engaged in the resale of telecommunications services. Although initially engaged almost exclusively in the provision of domestic interexchange telecommunications services, TRA's resale carrier members have aggressively entered new markets and are now actively reselling international, wireless, enhanced and internet services. TRA's resale carrier members are also among the many new market entrants that are or soon will be offering local exchange and/or exchange access services.

accelerated procedure. Inasmuch as the *Public Notice* recognizes from the outset that "development of robust competition for all telecommunications services requires that there be a means of swift and fair dispute resolution between competitors,"² TRA's comments herein are premised upon the assumption that the Accelerated Docket proposed by the Commission will be reserved for the resolution of carrier-to-carrier complaints. As the Commission has observed, unlike consumer-initiated complaint proceedings, carrier-to-carrier disputes frequently raise issues concerning allegations of discriminatory or other anticompetitive conduct by carriers, often related to "a rate, charge, term or condition of a particular service offering."³ Since such complaints are directly related to "issues of competition in the provision of telecommunications services"⁴ and are also inherently focused in scope, carrier-to-carrier disputes raising such issues ideally lend themselves to the rapid resolution timeframe contemplated for Accelerated Docket actions.

TRA commends the Commission for its adoption of the streamlined rules announced in the *Report and Order* in this proceeding and strongly supports the establishment of an even more accelerated forum devoted specifically to the adjudication of complaints brought by telecommunications service providers seeking to alleviate impediments to competition. Such a procedure would, in TRA's view, constitute a potent and formidable tool for the Commission in fulfilling its obligations under the Telecommunications Act of 1996 to foster the widespread availability of competitive telecommunications services to all consumers. Further, application

² Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers, Public Notice DA 97-2178, at 1 (released December 12, 1997).

³ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), CC Docket No. 96-128, FCC 97-396, ¶ 83 (Nov. 25, 1997).

⁴ *Public Notice*, DA 97-2178 at ¶ 1.

of the Commission's streamlined complaint proceeding rules to such an Accelerated Docket procedure, modified only slightly to accommodate the time constraints necessitated by the proposed 60-day completion schedule, is not only appropriate but necessary to the accomplishment of one of the Enforcement Task Force's primary purposes, that is, "identifying and investigating actions by common carriers that may be hindering competition in telecommunications markets and with initiating actions where necessary to remedy conduct that is unreasonable, anti-competitive or otherwise harmful to consumers."⁵ TRA thus urges the Commission to establish the proposed Accelerated Docket without delay, and to facilitate the swift resolution of Accelerated Docket complaints, specifically including carrier-to-carrier complaints involving not only rates, charges and/or terms or conditions of carrier service offerings, but such critical competitive matters as provisioning, maintenance, repair and billing, through application of streamlined rules particularly well-suited to resolution of such complaints, as set forth below.

I.

INTRODUCTION

A long-standing and ardent proponent of a mandatory, efficiently-streamlined, highly expedited and fully-binding process for the prompt and equitable resolution of carrier-to-carrier disputes, TRA has been an active participant in this proceeding. Through its revision of existing formal complaints rules, the Commission has gone far toward achieving its stated intent of eliminating and/or streamlining heretofore cumbersome and unnecessary complaint procedures

⁵ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), CC Docket No. 96-128, FCC 97-396 at ¶ 5.

and pleading requirements. TRA strongly supports the Commission's proposal to further enhance the effectiveness of complaint proceedings by making available additional "alternative forms of complaint adjudications and enforcement actions". The proposed Accelerated Docket for the resolution of complaints alleging actions by common carriers which hinder the development of telecommunications competition or which are otherwise unreasonable, anti-competitive or adverse to consumer interests, will form a useful adjunct to the Commission's newly-streamlined formal complaint processes. Establishment of an alternative forum such as the proposed Accelerated Docket procedure thus represents a logical next step toward Commission facilitation of the 1996 Act's primary goal of advancing "full and fair competition in all telecommunications markets."⁶

As set forth below, however, certain modifications to the Commission's streamlined formal complaint rules will be necessary in order to accommodate the heightened time-sensitivity inherently part of an adjudicatory model tasked with the resolution of complaints within a 60-day timeframe. Further, the very nature of the carrier-to-carrier disputes which will fall within the scope of the proposed Accelerated Docket Procedure compels an acknowledgment that in many circumstances only the defendant will possess essential factual information necessary to the resolution of the complaint; thus, complainant's best effort at satisfying the Commission's fact-pleading requirements must suffice -- and should prevent dismissal of the complaint -- until the defendant has provided such information as required by the streamlined formal complaint rules. Further, the logistics associated with the time constraints imposed by the Accelerated Docket procedure, when coupled with the continuing unavailability of information to many complainants, strongly supports the imposition of swift and severe sanctions upon parties refusing to comply with discovery requests. Indeed, the Accelerated Docket procedure will play an effective role

⁶ Id. at ¶ 4.

in advancing the development of a pro-competitive, deregulatory national policy framework for the telecommunications industry only if participants are keenly aware that evasive or dilatory behavior will carry significant penalties.

II.

ARGUMENT

A. Need for Accelerated Docket (¶ 1)

As the Commission noted in the *Report and Order*, "[p]rompt and effective enforcement of the Act and the Commission's rules is crucial to attaining the 1996 Act's goals of full and fair competition in all telecommunications markets."⁷ TRA fully agrees that allegations of unreasonably discriminatory conduct by telecommunications carriers, not merely those formal complaints subject to statutory deadlines mandated by Congress in the Telecommunications Act of 1996,⁸ must be addressed -- and resolved -- expeditiously in order "to reduce impediments to robust competition in all telecommunications markets."⁹ Nowhere is the need for prompt resolution of complaints more urgent than in the context of carrier-to-carrier disputes. Such complaints, as the Commission has recognized, often raise issues cutting to the very heart of a service provider's ability to enhance the array of service options available to consumers.

⁷ Id. at ¶ 1.

⁸ 47 U.S.C. §§ 208, 260, 271, 275; Pub. L. No. 104-104 Stat. 56, §§ 208, 260, 271, 275.

⁹ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), CC Docket No. 96-128, FCC 97-396 at ¶ 2.

In a competitive environment, formal complaints are not resorted to lightly. In TRA's experience, a small carrier which is compelled to file a complaint for redress of conduct touching upon these issues does so only as a last resort, knowing full well that every day which passes without resolution of the dispute is damaging, perhaps desperately so, to its ability to provide a competitive alternative for the satisfaction of the telecommunication needs of consumers. Accordingly, it remains of critical importance that available complaint processes present an avenue for the rapid resolution of such disputes. The benefit to competition which would flow from rapid resolution of complaints raising allegations of anticompetitive behavior, regardless of which party ultimately prevails, is manifest.

In light of the requirement embodied in the streamlined formal complaint rules that the parties engage in settlement attempts prior to the filing of a formal complaint, automatic eligibility for inclusion on the Accelerated Docket would present no appreciable hardship for a telecommunications carrier defendant which not only possesses the necessary information to facilitate resolution of the dispute but which has also previously engaged in specific discussions with complainant concerning the precise matter at issue. Indeed, the Commission's recent streamlining of the formal complaint process generally would present similar, albeit slightly less rigorous, time constraints upon a defendant in any event. Thus, no downside of any consequence would flow from the establishment of an expedited procedure, or from automatically deeming carrier-to-carrier complaints eligible therefor.

Given the manifest benefits that would flow from the establishment of an Accelerated Docket procedure, coupled with the unlikelihood of disadvantage to participants, TRA strongly urges the Commission to establish the Accelerated Docket and to afford a

presumption of automatic eligibility for Accelerated Docket treatment for all carrier-to-carrier complaints raising competitive issues.

B. Minitrials (§ 2)

TRA also strongly supports the proposed structure of the Accelerated Docket, incorporating the presentation of live testimony in a hearing-type setting. Such a procedure is less likely to lend itself to obfuscatory tactics which can easily arise in circumstances of reliance upon a paper proceeding alone, and will enhance the ability of the Task Force to solicit additional information from hearing participants without delaying the ultimate resolution of the complaint. Additionally, in light of the proposed 60-day timeframe for resolution of Accelerated Docket complaints, "allow[ing] the parties a substantially greater opportunity to present live testimony and oral argument" within the context of carefully timed mini-trials¹⁰ may be a realistic necessity for reaching an ultimate conclusion within the allotted timeframe. TRA thus urges the Commission to adopt a procedure pursuant to which all Accelerated Docket proceedings would be subject to a hearing at which each side is permitted to present evidence. The Commission's proposal that such hearing would take place no later than 45 days after the filing of the complaint is reasonable in light of the overall 60-day adjudication schedule. The placement of certain time limits on both the presentation of the case and the cross-examination of witnesses will also facilitate the resolution of a greater number of complaints than would otherwise be possible.

TRA urges the Commission, however, that while as a general rule the parties should be limited to a specific amount of time within which to present testimony and engage in cross-examination of the opposing party's witnesses, the rigid enforcement of those time allotments should only be strictly enforced in circumstances where witnesses are reasonably

¹⁰ Id. at ¶ 138.

forthcoming with responses to inquiries. It is essential to the equitable resolution of disputes that the adjudicator maintain discretion to respond to situations where information is not sufficiently forthcoming during the allotted time by either allowing additional time to the party seeking to solicit information or, in situations where witnesses are intentionally evasive or non-responsive, by imposing immediate sanctions upon the party with whom the witness is associated.

C. Discovery (¶ 3)

TRA argued in its comments and reply comments in this proceeding that a complainant's access to discovery tools sufficient to allow the full development of its claims should not be diminished in any significant degree, and certainly should not be eliminated. The Commission, although choosing to "eliminate the rule authorizing the parties to initiate self-executing discovery,"¹¹ has addressed the concerns of TRA and others by adopting "rules and parties that carefully balance the rights of the parties and the need to expedite the resolution of complaints."¹² Among these streamlined discovery procedures are the ability of the complainant to file a request for a limited number of written interrogatories simultaneously with its complaint with defendant afforded a similar right up to and including the time for service of its answer; additional follow-up requests for written interrogatories directed at defendant's factual allegations made in support of affirmative defenses; the establishment of compressed deadlines for oppositions and objections following service of such requests upon either party; and the elimination of parties' ability to seek additional "extraordinary" discovery as formerly provided by Section 1.730 of the Commission's rules.¹³

¹¹ Id. at ¶ 115.

¹² Id.

¹³ Id. at ¶ 116 (a)-(b); Appendix A, §§ 1.729(a), (c).

TRA agrees that these modifications to existing discovery rules should improve the ability of the Commission to resolve an increased number of complaints efficiently and quickly and should be likewise applied to the Accelerated Docket procedure. TRA is further encouraged by the Commission's indication that "staff will be inclined to grant all reasonable requests for interrogatories and other forms of discovery to the extent permitted under any applicable statutory deadlines".¹⁴ In light of the Commission's statement in the *Report and Order*, however, that "[r]equired attachments [to complaints] include relevant tariffs or tariff provisions where applicable",¹⁵ TRA respectfully submits that, inasmuch as implementation of the Commission's *Order* and *Order on Reconsideration* in CC Docket No. 96-61¹⁶ may result in many cases in the total unavailability of either tariffs or information concerning rates or descriptions of service offerings, carrier complainants may be required to engage in discovery requests in excess of the number set forth in the streamlined formal complaint rules simply to solicit the information necessary to fully substantiate the allegations contained in their complaints. Carrier complainants facing this increased evidentiary burden should not be unduly hindered in their attempts to obtain such information. Neither should the Commission sanction efforts by defendants to delay production of or to otherwise withhold such critical information. Indeed, so critical is the ability of complainants to obtain such information, TRA believes that an outright refusal to respond to a discovery request, or even unwarranted attempts to delay a response,

¹⁴ *Id.* at ¶ 116(f); Appendix A, § 1.729(h).

¹⁵ *Id.* at 87.

¹⁶ TRA's petition for review of the Commission's *Order on Reconsideration* in CC Docket No. 96-61 is currently pending before the U.S. Court of Appeals for the District of Columbia Circuit, *sub. nom.*, Telecommunications Resellers Association v. FCC, Case No. 98-1001 (Jan. 5, 1998); this case has been consolidated with appeals of the *Report and Order* in this docket, *sub. nom.*, MCI Telecommunications Corp. v. FCC, Case No. 96-1459 (Dec. 2, 1996).

should be swiftly addressed by the Commission. In the event requested relevant information is not forthcoming on an expedited basis, the Commission should take such steps as are necessary to compel production, up to and including a finding against a defendant who actively thwarts complaint resolution attempts.

D. Pre-Filing Procedures (¶ 4)

As noted above, in TRA's view, the Commission would appreciably advance the pro-competitive goals of the 1996 Act by adopting a presumption that carrier-to-carrier complaints raising allegations of anticompetitive conduct fall within the scope of the Accelerated Docket procedure. Adoption of such a presumption would greatly simplify the pre-filing review obligations of the Common Carrier Bureau and the Enforcement Task Force by requiring no effort beyond a cursory review of the complaint intake form mandated by the *Report and Order*.¹⁷ TRA cautions the Commission to consider carefully the suitability of consumer-to-carrier complaints for Accelerated Docket treatment. Such complaints are more appropriately addressed, in TRA's opinion, as part of the Commission's generally-applicable formal complaint processes. Resolution of consumer-initiated complaints, while deserving of quick resolution, do not engender the same weighty risks to the development of competition as carrier-to-carrier disputes; additionally, consumers will be less well-suited to cope with the time constraints associated with deadlines imposed by the Accelerated Docket procedure.

The Commission has also asked whether acceptance onto the Accelerated Docket should be permitted only after the dispute at issue has been submitted for "informal settlement

¹⁷ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), ¶ 57.

discussions under the auspices of the Task Force."¹⁸ The *Report and Order* streamlined rules mandating resolution attempts prior to filing a complaint as well as certification of those efforts at the time the complaint is filed¹⁹, including the "requirement that the complainant mail a certified letter outlining the allegations that form the basis of the complaint it anticipates filing with the Commission to the defendant carrier;²⁰ fact-pleading;²¹ production of relevant documents and identification of knowledgeable individuals with the complaint (and shortly thereafter, the answer)²² and a limited number of written interrogatories for both parties,²³ ensure not only that the parties will have diligently attempted to resolve the dispute but also that the parties are well-positioned to proceed with the resolution of the complaint without delay.

While TRA agrees with the Commission that "more dialogue between parties prior to the complaint process will reduce, and in some cases, eliminate, the need to file formal complaints with the Commission,"²⁴ the imposition of an obligation on the part of complainants to coordinate Task Force participation of settlement discussions, which most likely would not even be sought until after the parties have attempted unsuccessfully to resolve the matter without resort to official processes, would necessarily lengthen the dispute resolution process. Adoption

¹⁸ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers, Public Notice, DA 97-2178 at ¶ 4.

¹⁹ Id. at ¶ 39.

²⁰ Id. at ¶ 4.

²¹ Id. at ¶ 70.

²² Id. at ¶ 73.

²³ Id. at ¶ 116.

²⁴ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), ¶ 21.

of this requirement would thus impede the resolution process while according no appreciable corresponding benefit to participants and should not be imposed as a condition to acceptance of a complaint on the Accelerated Docket. As the Commission is aware, any delay in the resolution of carrier-to-carrier disputes will inure overwhelmingly to the detriment of the new market entrants and smaller competitors most desperately in need of a reliable, streamlined complaint resolution process. And in light of the administrative burden which a pre-filing settlement obligation would place upon Task Force personnel, the harm likely to flow from imposition of such a requirement is neither advisable nor necessary.

Designation of a complaint for the Accelerated Docket should be allowed (i) at request of the complainant at time of filing; (ii) at the joint request of parties to an existing formal complaint; or (iii) upon motion of the defendant within certain period (for example, 10 days) after the complaint is filed. In light of the 60-day timeframe, defendant objections to inclusion of the complaint on the Accelerated Docket should be required no later than 5 days following service of the complaint, with defendant's motion to be decided at the initial status conference. Inasmuch as the streamlined formal complaint rules require personal service upon defendant simultaneously with the filing of the complaint,²⁵ such a timeframe for objecting to inclusion of a complaint upon the Accelerated Docket will not be unduly burdensome for defendants.

E. Pleading Requirements (§ 5)

TRA shares the Commission's view that rapid resolution deadlines "place greater burdens on parties to provide facts and legal arguments in their respective complaints and

²⁵ Id. at ¶ 54.

answers to support or defend against allegations of misconduct by common carriers."²⁶ As the Commission has noted, however, formal complaints often concern such matters as rates, charges or terms or conditions of service offerings. In evaluating whether a complainant has satisfied the requirements of including "complete statements of fact, supported by relevant documentation and affidavits,"²⁷ therefore, TRA urges the Commission to be mindful that, absent continuing access to information concerning a carrier's rates, terms and conditions for all services, it will be virtually impossible for a complainant to include specific factual evidence at the time the complaint is filed which, standing alone, would satisfy a stringent application of the Commission's fact-pleading requirement. TRA agrees that such facts as are known to, and can be documented by, the complainant should certainly be included in the complaint. Unfortunately, in many, perhaps most, situations where a complainant is forced to resort to the Commission's complaint process to resolve a claim involving discrimination or other anticompetitive conduct, the information necessary to the ultimate resolution of that claim will reside solely with the defendant and perhaps with a third party which may or may not be conclusively known to the complainant and which may itself have no independent awareness of the significance of such information to complainant's ability to remedy defendant's anticompetitive actions.²⁸

TRA asks the Commission to recognize limitations imposed upon potential complainants by operation of the Commission's rules and, with respect to the Accelerated Docket procedure, to apply the fact-pleading requirements in a manner rationally related to the information

²⁶ Id. at ¶ 69.

²⁷ Id. at ¶ 70; 47 C.F.R. §§ 1.720(b)(c).

²⁸ And the Commission should, of course, refuse to sanction defendant withholding of information necessary to the resolution of an Accelerated Docket complaint under a claim of confidentiality.

reasonably available to the complainant at the conclusion of the settlement attempts mandated by the *Report and Order*. The inclusion of such information, included as part of the complaint either in the form of supporting documentation (where available) or "affidavits of persons attesting to the accuracy of the facts stated in the pleadings"²⁹ should be deemed to constitute the "full statement of relevant facts"³⁰ necessary to satisfy the fact-pleading requirements of the Commission's Rules. It would be grossly inequitable, in TRA's opinion, to apply the fact-pleading requirement so stringently that legitimate complaints would be subject to dismissal for lack of specificity simply because requisite information is not available to the complainant.³¹

F. Status Conferences (¶ 6)

Noting that the *Report and Order*'s streamlined rules call for an initial status conference to be held within 10 business days after an answer is due to be filed, the *Public Notice* suggests that an initial status conference for an Accelerated Docket proceeding, in order to accommodate the overall 60-day resolution timeframe, "would seem necessary no later than 15 calendar days after the filing of the complaint."³² TRA agrees that an initial status conference scheduled not later than 15 calendar days after the filing of the complaint represents a reasonable adjustment in scheduling necessary to accommodate the rapid timeframe of the Accelerated

²⁹ Id. at ¶ 72.

³⁰ Id.

³¹ An overly dogmatic application of the fact-pleading rule would also be difficult to reconcile with the Commission's acknowledgment in the *Report and Order* that "[a] complainant may be permitted, however, to file claims based on information and belief if such claims are made in good faith and the complainant attaches an affidavit to the complaint that explains why the supporting facts could not be reasonably ascertained." Id. at ¶ 82.

³² Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers, Public Notice, DA 97-2178 at ¶ 6.

Docket process. TRA notes, however, that a slight modification of the initial status conference rules adopted in the *Report and Order* will also be necessitated by that abbreviated timeframe. Namely, in order to avoid unnecessarily burdening smaller carriers and to facilitate timely satisfaction of the settlement efforts mandated by the *Report and Order*, the Commission should clarify that the pre-status conference "meet-and-confer" obligation of the parties may be satisfied by a telephonic conference covering "(1) settlement prospects; (2) discovery; (3) issues in dispute; (4) schedules for pleadings, (5) joint statements of stipulated facts, disputed facts, and key legal issues."³³ TRA also asks the Commission to modify the *Report and Order's* rules mandating the submission of a joint statement of disputed and undisputed facts at least two calendar days prior to the initial status conference to provide that, in the event the parties cannot formulate a comprehensive, joint statement of disputed and undisputed facts after participation in a "meet-and-confer", the parties will be allowed to submit individual statements of disputed facts, such individual statements to be due 10 days after filing of complaint.

G. Damages, Other Issues, and Review by the Commission (¶¶ 7-9)

To the extent damages are necessary, TRA supports bifurcation of liability and damages issues with only liability issues being subject to the Accelerated Docket Process. In many cases, however, the relief sought will be equitable in nature, and, accordingly, would flow out of the initial phase of the Accelerated Docket, obviating the need for a second stage.

TRA also supports the proposed 20-30 day completion of briefing for petitions seeking review of initial decision by Task Force. It is critical that closure be swiftly achieved and that the review process be completed with corresponding expedition to the complaint process.

³³ Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers (Report and Order), CC Docket No. 96-128, FCC 97-396 at ¶ 145.

Finally, the benefits flowing from the rapid resolution of complaints also supports establishment of *en banc* oral argument for Accelerated Docket proceedings in cases where the Task Force's initial decision has not been summarily adopted by the Commission. The record invariably benefits from a full airing of issues and, to the extent the Commission desires more information concerning an aspect of a Task Force determination, *en banc* presentation will provide an efficient and timely means for soliciting such information through direct and probing examination of the parties.

III.

CONCLUSION

By reason of the foregoing, the Telecommunications Resellers Association urges the Commission to established the proposed Accelerated Docket procedure for adjudication of carrier-to-carrier disputes as described above without delay and to adopt the above-described modifications to the streamlining formal complaint rules as those rules would apply to the Accelerated Docket procedure envisioned by the Commission in order to maximize the

effectiveness and the benefits flowing from the procedure which, in turn, will facilitate the advancement of competitive telecommunications service initiatives.

Respectfully submitted,

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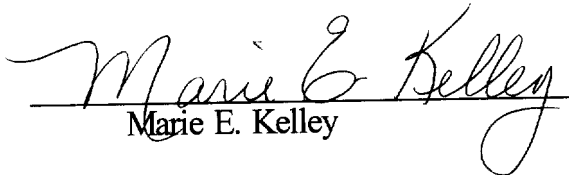
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